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| 4955 7590 10/13/2010 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/648,778

Applicant(s)

RANTA-AHO ET AL.

Examiner

MARCOS L. TORRES

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30-43 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-28 and 30-43 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7-15-2010 have been fully considered but they are not persuasive.
2. Regarding applicant's arguments that "3GPP TR 25.896 discloses that each Node B receives the uplink indicating one of the cells as a scheduling cell. 3GPP TR 25.896 only states that in the case there are multiple controlling Node Bs, the UE selects a resource assignment or combines resource assignments. There is no disclosure or suggestion about signaling a selection of a controlling Node B back to each of the Node Bs receiving that signaling. Instead, 3GPP TR 25.896 merely discusses that when more than one Node B control the cells present in the UE active set, there are several alternatives as to the location of the scheduling entity which controls the UE"; it is noted that all the Node Bs in the transmitted area are receiving the signaling, the Node Bs are unable to stop a wireless signal. Therefore, it would be obvious to one of the ordinary skills in the art of sending the notification of the scheduling cell is to let know the scheduling cell that is the one in charge and let the other Node B know not to waste the limited resources by issuing commands that no device is going to follow.
3. As to applicant argument that "Souissi discloses that each Node B receives the uplink indicating one of the cells as the scheduling cell. However, applicant respectfully disagrees, because in Souissi there is only one node receiving such communication, not

a plurality, since the piconet with its master node is established with the first two nodes vying for control. In Souissi, when no picocell is established, two nodes wishing to establish a picocell determine which of the two is to be the master node"; Souissi is not directed to only 2 devices, but to a plurality of devices as seen in fig. 1 and the initial transmission indicates to the devices who is the master and scheduling cell. Also, it is noted that the rejection in record does not relies in Souissi for the other limitations.

4. In view of the applicants argument that "the combination of the 3GPP specification and the negotiation of a master cell between two peer nodes or the identification of a node as being a master node in one picocell to another master node in another picocell would lead one skilled in the art to the combination of a user equipment selecting and signaling which of a plurality of base stations involved in a soft handover is to be the scheduling cell for the user equipment, as recited in the present application", the current rejection in record only relies for Souissi for the signaling of indicating the scheduling cell. Therefore, it would be obvious to one of the ordinary skills in the art of sending the notification of the scheduling cell is to let know the scheduling cell that is the one in charge and let the other Node B know not to waste the limited resources by issuing commands that no device is going to follow.

5. The rest of the arguments they fall for the same reasons as shown above. The current rejection in record remains.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-5, 10-16, 19-21, 26-28, 30-40 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) in view of Souissi 20020075941.

As to claim 1, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method for use by a user equipment device and Node Bs of a wireless telecommunication system, the method for enabling Node B based control during soft handover of the maximum data rate allowed for uplink by the user equipment device as indicated by a pointer in the user equipment device, the soft handover resulting in a change of a controlling Node B from a first one of the Node Bs to a second one of the Node Bs, each of the Node Bs for providing commands for control of user equipment devices in at least one respective cell so that scheduling control of the user equipment device in soft handover is simultaneously in at least two cells each possibly controlled by a different one of the Node Bs, the method comprising: the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands and issuing scheduling commands for controlling the pointer in the user equipment device if it is in control, but issuing no such commands if it determines it is not in control of the scheduling cell (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3rd Generation Partnership Project; Technical

Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 2, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method further comprising: the user equipment device and also the Node B in control of the scheduling cell each synchronizing a respective pointer for indicating the maximum allowed uplink data rate for the user equipment device to a value according to a synchronization procedure (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 3, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, the Node B sets the pointer the node B maintains to the

data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 4, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to a predetermined value (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 5, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method wherein according to the synchronization procedure, both the Node B and the user equipment device set their respective pointers according to predetermined criteria (see sections 7.1.1-7.1.1.3,7.3.2).

As to claims 10 and 26, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device, comprising: means for wirelessly communicating with Node Bs of a radio access network in a wireless communication system; a pointer for indicating a maximum allowed rate of uplink to the wireless communication system; means for adjusting the pointer responsive to scheduling commands received from a Node B controlling a cell in which the user equipment device is located; and means for up linking information indicating as a scheduling cell a particular cell from among a plurality of cells involved in

a soft handover, each cell possibly controlled by a different Node B the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose, determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 11, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device wherein the user equipment device comprises: means for selecting as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4).

As to claim 12, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device wherein the user equipment device comprises: means for determining whether scheduling commands are sent by the Node B controlling the scheduling cell and for disregarding all scheduling commands sent by other than the Node B controlling the scheduling cell (see sections 6.3,7.1.2.5-7.1.3,7.2.4).

As to claim 13, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device as in claim i0, wherein the user equipment device further comprises: means for synchronizing the pointer to a corresponding pointer in the Node B controlling the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 14, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses user equipment device wherein for synchronization, the user equipment device sets the pointer the user equipment maintains to the data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 19 and 27, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses Node B

comprising: means for wirelessly communicating with a user equipment device as an element of a radio access network of a wireless communication system; and means for determining when to assume control of scheduling of the user equipment device and when to cease control of scheduling of the user equipment device based on information up linked by the user equipment device indicating as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, (see sections 7.1.1-7.1.1.3,7.3.2). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose, determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 21, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses Node B of claim 20, wherein for synchronization, the Node B sets the pointer the node B maintains to the data rate used

in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3, 7.3.2).

As to claim 30, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, comprising: means for adjusting a pointer in response to received scheduling commands, wherein the pointer is configured to indicate a maximum allowed rate of uplink to a Node B of a wireless communication system controlling a cell in which a user equipment device is located; and means for up linking information indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which the user equipment is being handed over in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the

ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 31, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses, comprising: means for providing scheduling commands to the user equipment device for adjusting a corresponding pointer in the user equipment device, the means providing scheduling commands comprising a pointer for indicating a maximum allowed rate of uplink to the Node B by a user equipment device located in a cell controlled by the Node B; and means for determining whether to provide the scheduling commands based on information up linked by the user equipment device indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which or from which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the

uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 32, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, comprising: a processor, configured to: adjust the pointer in response to scheduling commands, wherein the pointer is configured to indicate a maximum allowed rate of uplink to a Node B of a wireless communication system controlling a cell in which a user equipment device is located; and uplink information indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3, 7.1.2.5-7.1.3, 7.2.4). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink

information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 33, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses an apparatus wherein the processor is further configured to: select as a scheduling cell a particular cell from among a plurality of cells involved in a soft handover (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 34, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses an apparatus wherein the processor is further configured to: determine whether scheduling commands are sent by the Node B controlling the scheduling cell and to disregard all scheduling commands sent by other than the Node B controlling the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 35, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, comprising: a processor, configured to: provide scheduling commands to the user equipment device for adjusting

a corresponding pointer in the user equipment device, the scheduling commands comprising a pointer for indicating a maximum allowed rate of uplink to a Node B by a user equipment device located in a cell controlled by the Node B; and; and determine whether to provide the scheduling commands based on information up linked by the user equipment device indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which or from which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 36, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus as in claim 35, wherein the processor is further configured to: synchronize to the corresponding pointer in the user equipment device the pointer in the Node B.

As to claim 37, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses apparatus, wherein the processor is further configured so that for synchronization, the pointer in the Node B is set to the data rate used in the uplink of the information indicating the scheduling cell (see sections 7.1.1-7.1.1.3,7.3.2).

As to claim 38, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses a method comprising: signaling in an uplink during soft handover from a first cell controlled by a first Node B to a second cell controlled by a second Node B information indicating one of the first and second cell as a scheduling cell and so indicating one of the first Node B and second Node B as the scheduling Node B; and receiving from the scheduling Node B scheduling commands for controlling a pointer in a user equipment device indicating a maximum allowed data rate for uplink the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections

6.3,7.1.2.5-7.1.3,7.2.4). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions

As to claim 40, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses method comprising: receiving by a Node B, in uplink information indicating a cell as a scheduling cell; determining whether the cell indicated as the scheduling cell is a cell controlled by the Node B; and issuing scheduling commands for controlling a pointer in a user equipment device indicating a maximum allowed data rate for uplink but only if the cell indicated as the scheduling cell is a cell controlled by the Node B the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 6.3,7.1.2.5-7.1.3,7.2.4). 3rd Generation Partnership Project;

Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 42, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses system, comprising a plurality of user equipment terminals, wherein each user equipment device comprises a processor, configured to: adjust a pointer in response to received scheduling commands, wherein the pointer is configured to indicate a maximum allowed rate of uplink to a Node B of a wireless communication system controlling a cell in which a user equipment device is located; and a plurality of Node Bs, wherein each of the Node Bs includes an apparatus comprising: a pointer for indicating a maximum allowed rate of uplink to the Node B by a user equipment device located in a cell controlled by the Node B; a processor, configured to: provide scheduling commands to the user equipment device located in a

cell controlled by the Node B, for adjusting a corresponding pointer in the user equipment device; and determine whether to provide the scheduling commands based on information up linked by the user equipment device indicating as a scheduling cell either the cell controlled by the Node B or a cell controlled by another Node B to which or from which scheduling control is being transferred in soft handover the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands (see sections 7.1.1-7.1.1.3, 7.3.2). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) does not specifically disclose determining whether it is in control of the scheduling cell. In an analogous art, Souissi discloses the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell; each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, determining whether it is in control of the scheduling cell (see par. 0030, 0041-0042, 0051-0052, 0082). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to select a scheduling or master station to orderly use network resources, thereby maximizing resources and preventing data collisions.

As to claim 43, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) discloses system as wherein the processor is

further configured to: synchronize a pointer in the Node B to the pointer in the user equipment device, according to a synchronization procedure, and in synchronizing the pointers, the Node B pointer is either set to the data rate used in the uplink of the information indicating the scheduling cell, or is set according to predetermined criteria, or is set to a value selected by the Node B and the Node B signals the selected value to the user equipment device (see sections 7.1.1-7.1.1.3,7.3.2).

As to claims 15-16, 20, 28 and 39 they are rejected for the same reasons as shown above in claims 1-4.

10. Claims 6-9, 17-18, 22-25 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) in view of Souissi as applied to claims 1 and 2 above, and further in view of the admitted prior art.

As to claim 7, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) disclose the method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to the data rate used in the uplink of the information indicating the scheduling cell or to a predetermined value (see sections 7.1.1-7.1.1.3,7.3.2), 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) do not specify to use

whichever is greater. The admitted prior art discloses that is known to use whichever is greater (see page 1, line 21-26). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use the faster so the user can have the fastest connection available, thereby increasing user satisfaction.

As to claim 6, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) disclose the method wherein according to the synchronization procedure, the Node B sets the pointer it maintains to a value it selects (see sections 7.1.1-7.1.1.3, 7.3.2). 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) do not specifically disclose explicitly signals the value to the user equipment device. However using explicit signaling (for example: set a value of 10) is a design choice within the knowledge of one of the ordinary skill in the art, if is interested in changing the value he may explicitly use the desired value.

As to claims 8 and 9, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (Release 6) 3GPP TR 25.896 V0.3.2. (2003-06) and Souissi disclose everything as explained above (see claim 1) except for the method wherein the issuing of scheduling commands is provided using differential signaling. However, in the admitted prior art the applicant admits that it know to use differential signaling to control the Node B (see page 1, col. 21-29). Moreover, choosing between using differential signaling (for

example: increase by a value of 10) and explicit signaling (for example: set a value of 10) is a design choice within the knowledge of one of the ordinary skill in the art, if one of the ordinary skill in the art is interested in keep track of the changes he may use differential signaling if is only interested in changing to the desired value he may use explicit. Both are a common and well-known technique.

As to claims 17-18 and 22-25, 41, they are rejected for the same reasons as shown in claims 6 and 8-9.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be mailed to:

U.S. Patent and Trademark Office
Commissioner of Patents

Art Unit: 2617

P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

571-273-8300

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcos L Torres/
Examiner, Art Unit 2617

mlt

/George Eng/
Supervisory Patent Examiner, Art Unit 2617